

Further, the Examiner has noted that the application contains claims directed to patentably distinct species. Accordingly, Applicant further elects to prosecute the species 1 directed to Figure 1 of the drawings.

It is noted that an election requirement was also issued by the Examiner in application serial no. 09/496,982, filed February 2, 2000.

Applicant desires to point out to the Examiner that there is a new application serial number 10/204,365, which is based on a revival of a PCT. Application AU/98/00619, filed August 6, 1998 directed to this subject matter and which claimed priority from Australian Patent Application 86184/97 filed in Australia August 6, 1997. As Applicant's attorney understands, there are now three applications pending for the same subject matter.

One is the present application serial number 09/840,212 filed on April 23, 2001. For the sake of order, it is a continuation of an application serial no. 09/496,212 filed February 2, 2000, which should be noted that this application inadvertently lacked certain pages of the disclosure when it was initially received by the Patent Office on February 2, 2000. Various steps to cure this defect were taken, and such defect is believed to be cured by the filing of serial number 10/204,365 based on a revival of this PCT application to cure the defect of the omitted pages.

The present application is a second application, which was filed on April 23, 2001 under serial number 09/840,212 also to cure this defect. It is understood that the Examiner has issued an election requirement in the serial no. 09/496,982 application also.

The third application is serial no. 10/204,365, which has the PCT filing date of August 6, 1998 and is also currently pending, and in all likelihood will be assigned to the Examiner examining this application.

As noted, all three applications are directed to the same subject matter, and all are based on the aforementioned PCT application and the Australian application.

As noted above, the Examiner has issued an election requirement in both application 09/496,982 and application serial no. 09/840,212. However, no official action has been received in the application 10/204,365.

In view of the Examiner's issuance of an election requirement and the Patent office's according of a filing date to 10/204,365 application; may Applicant assume that the present application will now be considered as including the pages inadvertently omitted on filing and date this application back to the Australian application by virtue of the priority through the PCT application, and that this application contains the complete disclosure which was intended to be filed and now is a full disclosure to support the subject matter of the claims and also provides for a continuous priority extending back to the basic Australia application serial no. 86184/97 of August 6, 1997.

If that is the situation, then the present application is directed to the method claims, which read on Figure 1 and related figures and applicant would like to know if such claims can be prosecuted in the present application or whether applicant must file one or more divisionals from the 10/204,365 application.

Also, for the sake of order, if this is not the situation, the election requirement response made in this application should have no effect and not be binding on the 10/204,365 application, and it is understood that the examiner still has to issue an official action on the 10/204,365 application. Moreover, it is also noted that an examination on the merits has to be conducted on serial no. 10/204,365 application, and applicant may still change the claims.

Further, Applicant disagrees with the Examiner with respect to an examination of this application and the four different species noted, and considers that a search of the prior art will establish that the prior art is pertinent to all of the claims, all of the four species and both the method and apparatus, and therefore all of the method claims should be retained in this application, together with all of the apparatus claims. In fact, the practice of the method claims may result in an infringement of the apparatus claims, and vice-versa. While this is not an important argument, if the Patent Office adopts the proposed unity requirements under consideration, they would be following the PCT unity requirements, and since this U.S. application is a result of what applicant is entitled to by virtue of the PCT requirements, all of the claims should be retained, and this is another reason for the traverse of the Examiner's requirement.

To expedite matters, the Examiner is respectfully asking to call Applicant's attorney to do what is necessary to continue with the prosecution of this application on the merits.

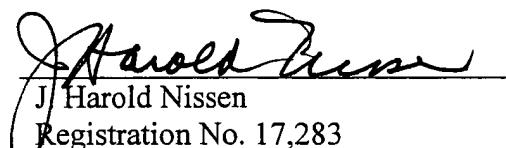
Therefore, Applicant elects to prosecute method claims 22, 23, 26, 27 and 28.

Early and favorable reconsideration is respectfully solicited.

Respectfully submitted,

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Certificate of Deposit by Mail

I hereby certify that this correspondence is being filed by depositing same in an envelope stamped first-class mail, addressed to the Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, in a duly marked U.S. Postal Service drop box, with appropriate postage, on the following date:

J. Harold Nissen

Attorney

J. Harold Nissen

Signature

July 2, 2003

Date

Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.